

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

PL 2
26887

FILE: B-212281

DATE: November 18, 1983

MATTER OF: Huffman Engineers, Inc.

DIGEST:

Agency correctly rejected bid as nonresponsive where bidder failed to acknowledge receipt of a material solicitation amendment which changed the rooms in which retiling work was to be performed to one in which considerably extra care and labor would have to be expended during performance.

Huffman Engineers, Inc. protests the rejection of its bid as nonresponsive for failure to acknowledge an amendment to invitation for bids (IFB) No. NR-10-7-81 issued by the Veterans Administration. For the reasons set forth below, we deny the protest.

The solicitation called for bids for the replacement of floor tile on five floors in Building No. 1 at the Veterans Administration Medical Center in Poplar Bluff, Missouri.

Huffman's low bid was rejected because the agency failed to receive its acknowledgment of amendment No. 2. This amendment provided:

"Tile Schedule for Ground Floor lists Room 79; Drawing 1-1 shows Room 80, The drawing is correct. Please change schedule to reflect Room 80 with same tile selection.

"Drawing shows remove floor tile only in Rooms D37-D39. This should have been A/C Equipment Room next to Room A7. Rooms D37-D39 are not included in this contract."

Huffman argues that the amendment contained only a minor clarification of a requirement already in the solicitation, and that its bid therefore should have been accepted despite its failure to acknowledge the amendment.

027283

The protester explains that the amendment merely changed a requirement to remove tile from one room to tile removal in another room with a resulting cost difference of only \$49. This was negligible, says Huffman, in view of the almost \$2,000 difference between its low bid of \$42,490 and the next low bid of \$44,390.

The agency maintains that addition of the requirement to remove tile from the air conditioning room would result in a significant increase in the labor required for the project since the mechanical equipment in that room is not flush with the floor thus making removal of the tile a tedious and difficult job. In addition, the agency states that additional care in keeping dust and dirt to a minimum is necessary in that room because of the sensitive nature of the equipment.

The failure of a bidder to acknowledge the receipt of an amendment to a solicitation which materially affects the solicitation generally renders the bid nonresponsive. A-1 Jersey Mayflower, B-210258, April 15, 1983, 83-1 CPD 417. An amendment is material if it has more than a trivial or negligible effect on price, quantity, quality or delivery of the item or services bid upon. G.E. Webb, B-204436, September 21, 1981, 81-2 CPD 234.

In light of the agency's statement that the removal of tile in the air conditioning room is considerably more difficult because of the presence of the air conditioning equipment, we cannot agree with the protester that the amendment was not material. While we are unable to determine from the record the probable impact on price of the amendment, it is clear that without the amendment the contractor could not be legally bound to remove any tile from the air conditioning room. This would have a significant effect on the contractual services the agency requires, and the amendment therefore must be viewed as material. See El Greco Painting and General Contractors Company, Inc., B-208215.2, November 30, 1982, 82-2 CPD 492.

Under the circumstances, Huffman's bid was properly rejected as nonresponsive.

We deny the protest.

for *Harry D. Van Cleave*
Comptroller General
of the United States